

SEC. 3. INFLUENCING, IMPEDING, OR RETALIATING AGAINST A FEDERAL OFFICIAL BY THREATENING OR INJURING A FAMILY MEMBER.

Section 115(b)(4) of title 18, United States Code, is amended—

- (1) by striking “five” and inserting “10”; and
- (2) by striking “three” and inserting “6”.

SEC. 4. MAILING THREATENING COMMUNICATIONS.

Section 876 of title 18, United States Code, is amended—

- (1) by designating the first 4 undesignated paragraphs as subsections (a) through (d), respectively;
- (2) in subsection (c), as redesignated by paragraph (1), by adding at the end the following: “If such a communication is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both.”; and
- (3) in subsection (d), as redesignated by paragraph (1), by adding at the end the following: “If such a communication is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both.”.

SEC. 5. AMENDMENT OF THE SENTENCING GUIDELINES FOR ASSAULTS AND THREATS AGAINST FEDERAL JUDGES AND CERTAIN OTHER FEDERAL OFFICIALS AND EMPLOYEES.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and the policy statements of the commission, if appropriate, to provide an appropriate sentencing enhancement for offenses involving influencing, assaulting, resisting, impeding, retaliating against, or threatening a Federal judge, magistrate judge, or any other official described in section 111 or 115 of title 18, United States Code.

(b) FACTORS FOR CONSIDERATION.—In carrying out this section, the United States Sentencing Commission shall consider, with respect to each offense described in subsection (a)—

- (1) any expression of congressional intent regarding the appropriate penalties for the offense;
- (2) the range of conduct covered by the offense;
- (3) the existing sentences for the offense;
- (4) the extent to which sentencing enhancements within the Federal sentencing guidelines and the authority of the court to impose a sentence in excess of the applicable guideline range are adequate to ensure punishment at or near the maximum penalty for the most egregious conduct covered by the offense;
- (5) the extent to which the Federal sentencing guideline sentences for the offense have been constrained by statutory maximum penalties;
- (6) the extent to which the Federal sentencing guidelines for the offense adequately achieve the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code;
- (7) the relationship of the Federal sentencing guidelines for the offense to the Federal sentencing guidelines for other offenses of comparable seriousness; and
- (8) any other factors that the Commission considers to be appropriate.

IMMIGRATION AND NATIONALITY ACT AMENDMENTS

Mr. REID. Mr. President, I ask unanimous consent that we move now to Calendar No. 292, H.R. 2278.

The PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2278) to provide for work authorization for nonimmigrant spouses of intracompany transferees, and to reduce the period of time during which certain intracompany transferees have to be continuously employed before applying for admission to the United States.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid on the table with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, the several requests are granted.

The bill (H.R. 2278) was read the third time and passed.

WORK AUTHORIZATION FOR NON-IMMIGRANT SPOUSES OF TREATY TRADERS AND TREATY INVESTORS

Mr. REID. I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 291, H.R. 2277.

The PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2277) to provide for work authorization for nonimmigrant spouses of treaty traders and treaty investors.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid on the table with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, the several requests are granted.

The bill (H.R. 2277) was read the third time and passed.

SMALL BUSINESS LIABILITY RELIEF AND BROWNFIELDS REVITALIZATION ACT

Mr. REID. I ask unanimous consent the Senate proceed to H.R. 2869, just received from the House, now at the desk.

The PRESIDENT pro tempore. The clerk will state the title of the House bill.

The legislative clerk read as follows:

A bill (H.R. 2869) to provide certain relief for small business from liability under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, and to amend such Act to promote the cleanup and reuse of brownfields, to provide financial assistance for brownfields revitalization, and to enhance State response programs.

There being no objection, the Senate proceeded to consider the bill.

Mr. NICKLES. Mr. President, for the information of colleagues regarding H.R. 2869, I ask unanimous consent the following letter be printed in the RECORD:

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, December 20, 2001.

MEMORANDUM

Subject: Davis Bacon Act Applicability Under Brownfields Legislation.

From: Robert E. Fabricant, General Counsel.
To: Marianne Horinko, Assistant Administrator, Office of Solid Waste and Emergency Response.

As you know, the House of Representatives has passed a bill, H.R. 2869, which we are informed would amend CERCLA to add a new section 104(k), “Brownfields Revitalization Funding.” We have been asked whether CERCLA, if amended as proposed in H.R. 2869, would require that the Davis-Bacon Act apply to contracts under loans made from a Brownfields Revolving Loan Fund (BRLF) entirely with non-federal funds. We have concluded that H.R. 2869 does not change the legal applicability of the Davis-Bacon Act to the Brownfields program. We have also concluded that this bill neither requires nor prohibits the application of the Davis-Bacon Act to contracts under BRLF loans made entirely with non-grant funds, e.g., principal and interest loan payments. CERCLA would continue to require that the Davis-Bacon Act apply to contracts under BRLF loans made in whole or in part with federal grant funds. Finally, state cleanup programs that operate independently and are not funded under this bill are not affected by the bill, and will operate in accordance with applicable state law.

The proposed legislation would add section 104(k) to CERCLA. New sections 104(k)(3)(A) and (B) authorize the President to make grants “for capitalization of revolving loan funds” for “the remediation of brownfield sites.” Under section 104(k)(9)(B)(iii), each recipient of a capitalization grant must provide a non-federal matching share of at least 20 percent (unless the Administrator makes a hardship determination). Section 104(k)(12), “Funding,” authorizes the appropriation of \$200 million for each of fiscal years 2002 through 2006 to carry out section 104(k).

Under the Davis-Bacon Act, 40 U.S.C. 276a et seq., most public building or public works construction contracts entered into by the United States must stipulate that the wages paid to laborers and mechanics will be comparable to the prevailing wages for similar work in the locality where the contract is to be performed. The Davis-Bacon Act does not apply by its own terms to contracts to which the United States is not a party, including contracts awarded by recipients of federal grants in performance of a grant project.

The proposed legislation is silent regarding the applicability of the Davis-Bacon Act to BRLFs. However, an existing provision of CERCLA section 104(g), extends the reach of the Davis-Bacon Act beyond direct federal procurement. That section applies Davis-Bacon Act prevailing wage rate requirements to contracts “for construction, repair or alteration work funded in whole or in part under this section.” Since the new BRLF provision would fall within section 104, it would be subject to the Davis-Bacon requirements of section 104(g). However, CERCLA does not define the precise meaning or scope of the quoted from section 104(g).